

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

MARLIN E. JONES,

Plaintiff,

vs.

TERRY L. BURNS,

Defendant.

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4:06CV3051

MEMORANDUM  
AND ORDER

This matter is before the court on plaintiff's motion for leave to appeal in forma pauperis ("IFP") [81]. On October 11, 2007, the court dismissed plaintiff's claims without prejudice for lack of jurisdiction. On October 17, 2007, plaintiff filed a notice of appeal of the court's judgment, together with the motion for leave to appeal IFP and request for transcript.

Fed. R. App. P. 24(a)(3) states:

**(a) Leave to Proceed in Forma Pauperis ....**

**(3) Prior Approval.** A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless the district court – before or after the notice of appeal is filed– certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis. In that event, the district court must state in writing its reasons for the certification or finding.

The court finds that plaintiff's appeal is taken in good faith. Because plaintiff proceeded IFP in the district court, he may now "proceed on appeal in forma pauperis without further authorization."

**IT IS THEREFORE ORDERED:**

1. Plaintiff's motion for leave to proceed on appeal in forma pauperis [81] is granted.
2. The Clerk of the court shall provide the Court of Appeals with a copy of this memorandum and order and shall mail a copy of this order to the plaintiff at his last known address.

**DATED October 18, 2007.**

**BY THE COURT:**

**s/ F.A. Gossett  
United States Magistrate Judge**